IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1127 of 2003 (O&M)

Date of decision : 22.11.2007

Harjit Singh and another

… Appellants

Versus

Lachman Singh and another

…Respondents

Present : Mr.Vishal Sodhi, Advocate for the appellant.
Mr.S.D.Bansal, Advocate for respondent No.1.

Vinod K.Sharma, J. (Oral)

On 13th March, 2003, when this case came up for motion hearing, the following order was passed:-

> This regular second appeal has been filed by the defendants against the judgments and decrees of the courts below, whereby the suit filed by the plaintiff was decreed by the trial Court and the appeal filed by defendants was dismissed by the learned Addl. Distt. Judge,
>
> After hearing the learned counsel for the appellants and after perusing the record, I find no illegality in the judgments of the courts below which may require interference by this court in this regular second appeal. The defendants are sons of the plaintiff. The plaintiff had failed the suit initially for injunction and later on he got it converted into a suit for possession. After hearing both sides, trial court decreed suit for possession in favour of the plaintiff and against defendants and defendants were directed to handover vacant possession of the house in dispute to the plaintiff, failing which the plaintiff was held entitled to seek possession through court. This finding was given by the courts in view of the fact that he plaintiff was owner of the house in question. The plea regarding oral family settlement was not accepted by the courts below, after considering evidence led by the parties. These are the findings

of facts recorded by the courts below and do not call for any interference by this Court in the present regular second appeal. The application for additional evidence filed by the defendants before the lower appellate court was also rightly dismissed by the lower appellate court, as the defendants wanted to examine further oral evidence in support of their claim. In my opinion, no fault could be found if the lower appellate court dismissed the application for additional evidence filed by the defendants.

Alongwith the present appeal, defendants appellants have filed an application under Section 151 read with Section 107 and Order 41 Rule 25 CPC, for remanding the case back to the trial court, after framing issues. In my opinion, no case for allowing this application is made out on the facts and circumstances of the present case.

In ground no.1 of the grounds of appeal, defendants appellants have submitted that considering that the dispute is between father and sons, it would be appropriate to summon the respondents and an attempt should be made to effect compromise between the parties. It has been submitted that efforts for compromise may be made so that parties may live happily.

In view of the above, notice of motion be issued to the plaintiff respondent No.1 Lachman Singh, only for exploring the possibility of compromise between the parties. Let notice of motion to plaintiff respondent no.1 be issued for 28.4.2003."

The learned counsel for the appellant, states that there is no possibility of compromise. Therefore, in view of the order passed by this Court on 13th March, 2003, this Regular Second Appeal is ordered to be dismissed.

[**Vinod K.Sharma**]
Judge

22.11.2007

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